IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

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TUESDAY, THE TWENTY SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

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THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 13017 of 2004

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Between:

1 Munjuluri Sreeramulu, S/o Subba Rao,
R/o Vakalapudi Village, Kakinada Rural Mandal, East

Godavari District
2 Munjuluri Appalaraju, S/o Laxmaiah,
R/o Vakalapudi Village, Kakinada Rural Mandal, East

Godavari District
3 Munjuluri Venkatalakshmi, W/o Arjuna Rao,
R/o Vakalapudi Village, Kakinada Rural Mandal, East

Godavari District

..... PETITIONERS

AND

1 The Mandal Revenue Officer, Kakinada, East Godavari

District
2 The District Collector, Kakinada, East Godavari District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in issuing the proceedings bearing No.B811/2000 dated 14-11-2000 and quash the same, as being without jurisdiction, contrary to law and inconsistent to the facts and circumstances of the

case and also as being opposed to the earlier orders of this Hon'ble court and pass the consequential order directing the 1st respondent to issue proceedings for restoration of the land measuring Ac.9.22 cents in Sy.No.251/3,2,1 of Vakalapudi Village, Kakinada Rural Mandal, East Godavari District in favour of the petitioner.

Counsel for the Petitioners: MR.K.V.N.BHUPAL

Counsel for the Respondents: GP FOR REVENUE

The Court made the following ORDER:

The brief facts, necessary for disposal of the writ petition at the admission stage are as follows. The petitioners were assigned lands in the year 1961. These lands are comprised in S.No.251 of Vakalapudi Village, Kakinada Mandal. The lands were resumed by the Government after due process of law and the same were handed over to the Port Department on 22-4-1985. Subsequently the Government issued orders in G.O.Ms.No.105 dated 15-2-1991 assigning a portion of the land to Godavari Fertilizers and Chemicals Limited for the purpose of dumping Gypsum. However, the land was allegedly in possession of the Port Department only.

The petitioners filed C.C.No.1458 of 2000 complaining that the orders of the Division Bench dated 27-1-1997 in W.P.No.21536 of 1994 are disobeyed. The respondents opposed the contempt case and it was brought to the notice of this court that the Mandal Revenue Officer has passed orders on 14-11-2000 pursuant to orders of the Division Bench, rejecting the claim for restoration/reassignment of the land. Taking note of the same, the Division Bench dismissed the Contempt Case giving liberty to the petitioners to challenge the proceedings of the Mandal Revenue Officer dated 14-11-2000. Thereafter, present writ petition is filed challenging the proceedings of the Mandal Revenue Officer.

Learned counsel for the petitioner made strenuous submissions that the land has always been in possession of the petitioners that the same is never handed over to Godavari Fertilizers and that at the time, when the assignments were made in the year 1961, the petitioners were landless poor persons.

A perusal of the impugned order dated 14-11-2000 would show that the first petitioner owns Acs.2.15 of land in Vakalapudi village, whose value is about Rs.20,00,000/- (Rupees twenty lakhs only) Besides the land, he also constructed a house worth about Rs.6,00,000/- (Rupees six lakhs only). The order further reveals that the petitioners 2 and 3 also own lands besides having a share in the tiled house of the first petitioner. The third petitioner also is in possession of land admeasuring Acs.2.04 and he owns a tiled house with assessment No.131 valued at about Rs.50,000/- (Rupees fifty thousand only). These property particulars are not denied. Therefore, they are not landless poor persons. Further, the impugned order also reveals that the land, which was initially assigned to the petitioners, is within the Costal Regulatory Zone and in possession of the Port Department and as per the judgment of the Supreme Court, the land in C.R.Z. cannot be assigned to person.

Though, the learned counsel for the petitioner disputes various facts found in the impugned order this court is not inclined to go into these questions. Further there is no denial of the fact that the petitioners own other lands besides housing property and they are neither landless nor poor. This court is not impressed with the submission of the learned counsel for the petitioner that in the year 1961 they are landless poor persons. Indeed the Division Bench while disposing of the writ petition in 1997 observed as under.

"We agree with the contention of the learned counsel for the petitioners. If the land in question is available with the Government and has originally the lands were assigned lands to the petitioners, the petitioners are entitled to restoration of the same. In the case of refusal by the petitioners, then the land in question may be assigned to third parties.

Accordingly, **the writ petition is disposed off, directing the authorities to consider the representation of the petitioners for restoration of the land, if they are otherwise entitled to. Till the disposal of the representations of the petitioners, both the parties shall maintain status-quo as on today as regards the possession of the land in question."**

(emphasis supplied)

Even according to the judgment of this court on which heavy reliance is placed, this court only directed the respondents to consider the claim of the petitioners for restoration of land, if they are otherwise entitled. As per Board Standing Orders, a person to be entitled for assignment should be landless and also poor. The petitioners do not satisfy the criteria. Be that as it is, against the order passed by the Mandal revenue Officer refusing reassignment/restoration of the land an appeal/revision lies to the Joint Collector under BSO-15(18). The petitioner may avail the same. As and when such appeal/revision is filed, the Joint Collector shall dispose of the same without in any manner influenced by the observations made hereinabove.

The Writ Petition, with the above directions, is disposed of at the admission stage.

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V.V.S. RAO, J.

27th July, 2004

Js

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1 The Mandal Revenue Officer, Kakinada, East Godavari

District
2 The District Collector, Kakinada, East Godavari District

3 Two CCs to G.P. for Revenue, High Court Buildings,

Hyderabad. (OUT)

4 2 CD copies.